

LAW ENFORCEMENT PROFESSIONAL STANDARDS SUBCOMMITTEE
Professional Development Center
West Virginia State Police Academy
Dunbar, West Virginia

March 31, 2016

MEMBERS PRESENT: Sheriff Tom McComas
Mayor John Manchester
Retired Chief Steve Stephens

MEMBERS REPRESENTED: Colonel Jay Smithers by
First Sergeant Harold R. Petry
Colonel Jerry Jenkins by
Lieutenant Warren E. Goodson
Chief Ray Fridley by
Chief Brad Rinehart
First Lieutenant James Lee by
First Sergeant Aaron D. Nichols
Chief Steve Walker by
Retired Lieutenant Steve Neddo
Ms. MaryKaye Jacquet by
Sergeant J. L. Johnson
Ms. Patti Hamilton by
Mr. Jack McClung

ABSENT: Retired Lieutenant Terry Miller

STAFF: Retired Captain Chuck Sadler
Ms. Kimberly Mason
Ms. Judy Strickland
Ms. Celeste Webb-Barber

The March 31, 2016 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:01 a.m. by the Chair, Retired Chief Stephens. There were ten (10) members either present or represented which represents a quorum of the Subcommittee membership, at the start of, and during, the meeting.

The following actions were taken during this meeting in reference to the agenda items scheduled:

1. Agenda Item 1 – Consideration of the minutes from the February 25, 2016 meeting. Motion made, Sheriff McComas, seconded Retired Sergeant Johnson, to accept the minutes as presented. The motion was approved unanimously without any discussion and no negative votes cast.
2. Agenda Item 2 – Retired Captain Sadler provided the LEPS Fund Account financial update informing the members that there is a positive balance of \$3,487.11 available in the LEPS Fund Account. He noted that while there are pending costs for Mr. Maxwell to hold the appeals of actions from the LEPS Subcommittee decisions, that the next major obligation to be considered for funding will be the annual request for the five civilian support staff at the West Virginia State Police Academy for FY2017. Retired Captain Sadler noted it would be the LEPS Program recommendation, at that time, for the request to be approved for continued funding, but that we may have to award one half of the projected \$220,000 requested to allow that award to begin July 1, 2016 and award the second half of the request later in the calendar year to cover the January 1, 2017 to June 30, 2017 period as sufficient funds are present in the LEPS Fund. After the salary award is made, the next projected request for funding will be in December 2016 with the Basic 169 Class that will begin in early January 2017. Retired Captain Sadler informed the Subcommittee that there should not be any problem with funding that class. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to accept the report as presented. The motion was approved unanimously without any discussion and no negative votes cast.
3. Agenda Item 3 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of applications of individuals listed as certified law enforcement instructors in the areas of expertise listed. The motion was approved unanimously without any discussion and no negative votes cast.
4. Agenda Item 4 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. The motion was approved unanimously without any discussion and no negative votes cast.

5. Agenda Item 5A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for annual in-service credit. There was a question by Sheriff McComas concerning the training submitted concerning the Municipal Judges training as to the nature of the training. Retired Captain Sadler noted that the training has a section addressing legal updates pertinent to law enforcement officers and that there would be officers in attendance who also served as Municipal Judges. There were no other questions concerning that or the other classes listed. The motion was approved unanimously without any discussion and no negative votes cast.
6. Agenda Item 5B – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for supervisory in-service credit. The motion was approved unanimously without any discussion and no negative votes cast.
7. Agenda Item 5C – Motion made Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for personal in-service credit. The motion was approved unanimously without any discussion and no negative votes cast.
8. Agenda Item 5D – Consideration of applications for Train the Trainer Courses. There were none. No action required.
9. Agenda Item 5E – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for annual in-service credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. The motion was approved unanimously without any discussion and no negative votes cast.
10. Agenda Item 5F – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for supervisory in-service credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. The motion was approved unanimously without any discussion and no negative votes cast.
11. Agenda Item 5G – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for personal in-service training credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. The motion was approved unanimously without any discussion and no negative votes cast.
12. At the indication of the Chair that there were personnel related matters to be discussed under Agenda Items 6 through 12 there was a motion made by Sheriff McComas, seconded, Retired Sergeant Johnson, and approved unanimously without discussion for the Subcommittee to go into executive

session at 9:08 a.m. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, and approved unanimously without discussion for the Subcommittee to come out of executive session at 11:19 a.m., no action having been taken during the executive session on any of the items discussed. The Chair then moved to address, as necessary, the agenda items that had been discussed while in executive session.

13. Agenda Item 6 – Stop Work Order Agenda Item #7, February 25, 2016 LEPS meeting and pertaining to Agenda Item #9E Certification Review to be discussed during today's meeting. Presented for informational purposes only, no action required.
14. Agenda Item 7 – Criminal Conviction Records as to Applicant for Entry Level Law Enforcement Training Program. None presented. No action required.
15. Agenda Item 8 – Request to attend the Entry Level Training Program as a Private Citizen or be approved to be employed once again as a sworn officer following a department from the entry level training program. None presented. No action required.
16. Agenda Item 9A – Officer #1 – Noted that the Circuit Judge handling this appeal ruled in favor of Mr. Staton and the Governor's Committee on Crime, Delinquency and Correction (GCCDC) as to the denial of the reactivation of this former officer's certification. Non-reactivation of certification remains in place. This former officer has thirty days to appeal this decision to the West Virginia Supreme Court. Presented for informational purposes only. No action required.
17. Agenda Item 9B – Officer #2 – This former officer waived his right to appeal the previous decision to not reactivate his certification to Mr. Staton at the hearing set to address the appeal. It was acknowledged on record that his attorney and the officer understood that in doing so he would not be able to work again as an officer in this state. Final Order has been prepared reflecting this action and will be sent to parties involved. Presented for informational purposes only. No action required.
18. Agenda Item 9C – Officer #3 – This former officer had appealed the decision of the LEPS Subcommittee to not allow him to attend an entry level training program as a private citizen or to be employed again following a five year absence after termination from that program. Mr. Staton assigned the appeal to Mr. Maxwell as the appointed Hearing Examiner and Mr. Maxwell has issued a recommended finding of facts and conclusions that the appeal be denied and submit them to Mr. Staton. A copy of the final finding issued will be presented to the members at the next Subcommittee meeting. Presented for informational purposes only. No action required.

19. Agenda Item 9D – Officer #4 – This former officer has filed an appeal of the decision by Mr. Staton to uphold the revocation of his law enforcement certification. Ms. Webb-Barber has filed her response with the court and is awaiting decision by the Circuit Judge assigned this appeal. Ms. Webb-Barber will continue to monitor. Presented for informational purposes only. No action required.
20. Agenda Item 9E – Officer #6 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to accept Draft Position Statement for action taken from agenda item 7, February 25, 2016 meeting reflecting decision of LEPS Subcommittee members to deny entry into basic class program at this time. Discussion followed. There was consensus agreement by the members present that while this individual's participation had been denied at this time that if factors changed over time as to the behavior that had resulted in the denial that the members, at a later Subcommittee meeting would reconsider this individual being able to participate in the entry level training program. The motion was approved unanimously with no further discussion and no negative votes cast.
21. Agenda Item 9F – Officer #7 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to accept Draft Position Statement for action taken from Agenda Item 9H, February 25, 2016 meeting reflecting decision of LEPS Subcommittee members to accept surrender of this former officers certification as a West Virginia law enforcement officer due to an agreement with Kanawha County Prosecutor's Office in lieu of criminal charges. The motion was approved unanimously with no further discussion and no negative votes cast.
22. Agenda Item 9G – Officer #8 – This officer had appeared before the Subcommittee and spoken with the members concerning a certification review involving a plea to a criminal charge that he had entered. Motion made, Chief Rinehart, seconded Retired Sergeant Johnson, that no action be taken by the Subcommittee against this officer's certification. Lieutenant Goodson abstained from voting. The motion was approved unanimously with no further discussion and no negative votes cast.
23. Agenda Item 9H – Officer #9 – This officer did not appear before the Subcommittee for a certification review referencing a plea to criminal charges. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that this officer's certification be revoked due to his inability to carry a weapon and the nature of the criminal charges he had plead guilty to. The motion was approved unanimously with no further discussion and no negative votes cast. A Position Statement will be prepared for the member's approval at a later meeting.

24. Agenda Item 9I – Officer #10 – This officer and his attorney appeared before the Subcommittee with a request to present additional information for the members to consider concerning the Subcommittee's decision as to the revocation action taken with Agenda Item 15 during the January 28, 2016 meeting. This officer offered information as to his conduct and why he had submitted the information that he had which had resulted in the revocation of his certification. The officer, and his attorney, proposed that the members accept the surrender of his certification as a West Virginia law enforcement officer due to the nature of what had caused him to submit the information that he had. No action taken during this meeting as to the surrender action proposed pending the submission of a written indication by the officer to so surrender his certification. Upon receipt it will be considered by the Subcommittee members. Revocation remains in effect from the decision made during the January 28, 2016 meeting. .
25. Agenda Item 10A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement certification of the fifteen (15) law enforcement officers listed in the agenda packet. The motion was approved unanimously with no discussion.
26. Agenda Item 10B – Review of reactivation requests where officer left prior agency with standing in question. There were none, no action required.
27. Agenda Item 11A – Officer #1 – This officer appeared before the Subcommittee for reactivation review following separation of more than sixty (60) months as a West Virginia law enforcement officer. Motion made, Sheriff McComas, seconded Retired Sergeant Johnson, to table decision on this request until the officer submits all training documentation from his prior employment in order for subcommittee to determine whether or not training is related to law enforcement. The motion was approved unanimously with no further discussion.
28. Agenda Item 11B – Officer #2 – This officer appeared before the Subcommittee for reactivation review following separation of more than sixty (60) months as a West Virginia law enforcement officer. Motion made, Sheriff McComas, seconded Retired Sergeant Johnson, that this officer be approved to attend the September 2016 recertification class. The motion was approved unanimously with no further discussion.
29. Agenda Item 12 – Equivalent certification program reviews as to decisions made. This officer's Virginia law enforcement certification was reviewed by LEPS Subcommittee members via email and he was approved to participate in the September 2016 equivalent certification class. Provided for informational purposes, no action required.

30. Agenda Item 13 – Review of officer's ability to enter and complete the entry level training program. There were none, no action required.
31. Agenda Item 14 – Request by an officer for accommodations relating to attendance in the entry level training program. There were none, no action required.
32. Agenda Item 15 – FOIA requests and responses. There were none, no action required.
33. Agenda Item 16 – Training schedule for the 166th Basic Class at the West Virginia State Police Academy from March 14, 2016 to July 1, 2016. Provided for informational purposes, no action required.
34. Agenda Item 17A – Retired Captain Sadler gave an update on the 2016 Legislative session as to proposed changes to CSR 149-2. Presented for informational purposes, no action required.
35. Agenda Item 17B – Retired Captain Sadler gave an update on the 2016 Legislative update as to actions impacting law enforcement. He noted that he will be sending information through the list serve and to the professional/fraternal law enforcement organizations to provide an update on the legislation involved. Presented for informational purposes, no action required.
36. Agenda Item 18 – Reminder as to the Legislative Rules Review that will be April 26-27, 2016 at Stonewall Resort, followed by the regular monthly meeting on April 28, 2016.
37. Agenda Item 19 – Reminder as to the Statewide Police Memorial Observance will be May 3, 2016 at 4:30 p.m. in the Grand Hall of the Cultural Center which is located on the Capitol grounds.
38. Agenda Item 20 (first one) – Review by Retired Captain Sadler as to his attendance and participation in the Community Oriented Policing (COPS) Office Forum in Washington, DC. He reviewed the items discussed that addressed police training issues and noted that there would be additional information provided to the members about this Forum during the Rules Review set for April 26-27, 2016. Presented for informational purposes, no action required.
39. Agenda Item 20 (second one) – Actions/correspondence taken on behalf of LEPS Subcommittee by LEPS Program: Presented for informational purposes, no action required. There were no questions from the members concerning these items.

40. Agenda Item 21 – The next LEPS Subcommittee meeting is scheduled for Thursday, April 28, 2016 at 9:00 a.m. at Stonewall Resort, preceded on Tuesday, April 26th and Wednesday, April 27th at the same location.

There being no further agenda items set for discussion a motion was made by First Sergeant Petry, seconded, Retired Sergeant Johnson, to adjourn this meeting. The motion passed unanimously with no discussion. Meeting adjourned at 11:47 a.m.